

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DANIEL G. PERKINS,  
Petitioner,  
v.  
DOUG WADDINGTON,  
Respondent.

Case No. C05-5247FDB

ORDER ADOPTING REPORT  
AND RECOMMENDATION

The Magistrate Judge recommends that this Section 2254 petition be dismissed as time barred and as procedurally barred as well. Petitioner's second state personal restraint petition on the same issues as the first was denied; this petition followed. Plaintiff's original petition was dismissed March 6, 2001. Petitioner was ordered to show cause why this petition should not be dismissed as time barred, but Petitioner did not address this question in his response.

Petitioner has not filed objections to the Report and Recommendation, but he instead filed a notice of appeal to the Ninth Circuit Court of Appeals.

The Court having reviewed the Report and Recommendation of the Hon. Karen L. Strombom United States Magistrate Judge, and the remaining record, does hereby find and Order:

- (1) The Court adopts the Report and Recommendation;

- 1 (2) The petition is **DISMISSED** for the reasons set forth in the Report and  
2 Recommendation. Petitioner's response to the Order to Show Cause does not  
3 address the court's concern that this petition is time barred.  
4 (3) The clerk is directed to send copies of this Order to Petitioner's counsel and to the  
5 Hon. Karen L. Strombom.

6 DATED this 10<sup>th</sup> day of August 2005.

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8 FRANKLIN D. BURGESS  
9 UNITED STATES DISTRICT JUDGE  
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